IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3108 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : YES

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANJUMAN EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3108 of 2002

MR BS PATEL for Petitioner

MRS RANJAN B PATEL for Petitioner

MS SONAL VYAS AGP for Respondent No. 1-3

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 30/07/2002

ORAL JUDGEMENT

#. Rule. Ms.Sonal Vyas waives service of Rule for

respondents.

#. The petitioners prayed in this petition to quash and set aside the impugned order dated 11.2.2002 (Annexure-A) passed by the respondent No.1 rejecting the appeal / representation filed by the petitioner and further prayed that the respondent authorities be directed to release grant in their favour to run Standard XI and XII in Nav Gujarat Madhyamik Secondary School at Balasinor, Dist. Kheda from the date of the application.

#. From the record of the case, it appears that the petitioner No.1-Trust was given permission in June, 1997 to start Standard XI General Stream in new school as a special case on a specific condition that it shall not ask for any grant. Accordingly, petitioner No.1-Trust started school in June, 1998 for Standard XI without claiming any grant and temporary permission was granted to it. An undertaking dated 2.11.1999 was submitted by the petitioner on stamp of Rs.20/= wherein it has been stated that the petitioner-Trust is having sufficient fund and if any need so arise it would be in a position to raise further funds and in no circumstances it shall claim any financial assistance / grant from the State Government. It is also stated in the undertaking that the petitioner-Trust is bearing expenses of the education as well non-teaching staff. On the basis of the undertaking, permission was granted by the respondent-authority to start Standard XI in General Stream by its letter dated 18.12.1999.

#. It appears that before filing this petition, the petitioner-Trust had earlier filed Special Civil Application No.783/02, which was disposed of by my learned Brother D.K.Trivedi, J. on 21.1.2002 (Annexure-F). As per the order passed by the learned Single Judge of this court a letter dated 1.2.2002 was addressed (Annexure-G) to take appropriate decision in the matter. The same was received on 6.2.2002 as stated at the Bar by learned counsel for the petitioner. The respondent-State Government by its order dated 11.2.2002 (Annexure-A) rejected the prayer made by the petitioner on two grounds; (1) that undertaking was given by the Trust not to ask for grant and (2) as per the prevalent rules, there are other schools also in the radius of 15 Kms., therefore, their request cannot be granted. Hence, this petition.

#. It is contended in ground (F) of this petition that along with application at Annexure G the petitioner trust also submitted a list of schools which had given

undertaking on stamp paper stating that they will not ask for any grant in future. But in spite of it, later on, they asked for grant and they were given the same, but in case of the petitioner, it has not been given. Therefore, it is in violation of Article 14 of the Constitution of India. Reliance has been placed upon the order passed by my learned Brother D.K.Trivedi, J. dtd. 21.1.2002 in Special Civil Application No.783 of 2002 (Annexure-F) and it was submitted that discriminatory treatment is meted out to the petitioner, therefore, the impugned order at Annexure-A be quashed.

#. It may be stated that along with this petition Annexure-G, only copy of the letter is annexed, but no list has been annexed. Be that as it may. Even assuming for the sake of argument that the permission was granted to some school on undertaking and later on grant was released in their favour that does not mean that the respondent-Government is bound to grant in each and every case. In fact, in my considered opinion when anyone seeking permission on undertaking to start school without grant then it is not open to him to ask for grant later on. That is not the only ground on which prayer of the petitioner to release grant was rejected. Another ground was that in radius of 15 Kms. distance other schools were also there. In any case, it cannot be said that the impugned decision at Annexure-A suffers from any vice which is required to be corrected by this court in its extraordinary jurisdiction under Article 226 of the constitution of India.

In view of the above discussion, this petition fails and is hereby dismissed. Rule discharged.

(B.J.Shethna, J.)
*Pvv